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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,765	05/09/2001	Rory A. Heim	10006454-1	3814

7590 05/28/2002

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P. O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

NGHIEM, MICHAEL P

ART UNIT	PAPER NUMBER
2861	

DATE MAILED: 05/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/851,765	<b>Applicant(s)</b> HEIM ET AL.
	<b>Examiner</b> Michael P Nghiem	<b>Art Unit</b> 2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  
 - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 28 March 2002.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,5-14 and 16-20 is/are rejected.

7) Claim(s) 3,4,15,21 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

The Amendment filed on March 28, 2002 has been acknowledged.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, is the control device different from the ink extraction determining device?

The remaining claims are also rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a rejected base claim.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in--  
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1, 2, 5-14, and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Cook (US 6,155,664).

Cook discloses all the claimed features of the invention including:

- an inkjet printing system (Fig. 1) configured for receiving a replaceable ink container (2), the replaceable ink container having ink extraction characteristics that vary with ink extraction (ink-specific information), the inkjet printing system comprising:
  - an ink extraction determining device (36) for determining ink extracted from the replaceable ink container (90, 94);
  - a control device (36) for selecting a print mode from a plurality of print modes (print primary ink vs. secondary ink, Fig. 4) based on ink extraction characteristics of the replaceable ink container (90),
    - the control device selects the print mode for selectively pausing printing (91) to reduce an average ink usage rate,

- the replaceable ink container has a gauge pressure characteristic based on ink usage varies with ink level within the ink container (negative pressure in 2 changes with ink level),

- the replaceable ink container has ink extraction characteristics that vary with ink level within the replaceable ink container (ink-specific information includes ink level information, column 5, lines 19-20),

- ink extraction characteristics are stored on an electrical storage device (12) associated with the replaceable ink container and wherein the ink extraction characteristics are provided to the control device after installation of the replaceable ink container into the inkjet printing system (Fig. 1),

- the information storage device is a semiconductor storage device (EEPROM or NVRAM device 12),

- a printhead (24) responsive to control signals for depositing ink on media and an ink delivery system (8) for delivering ink to the printhead (Fig. 1),

- a monitoring and control device (36) for monitoring ink delivered to the printhead by the ink delivery system (Fig. 1), and for adjusting a print rate during a print operation based on a rate of ink deposited on media and a rate of ink delivered to the printhead (Fig. 4, column 11, line 65, column 12, line 1),

- the monitoring device determines an amount of ink delivered to the printhead over a given time interval based on an extraction rate for an ink container that is determined based on ink remaining in the ink container (column 11, 34-46),

- the control device adjusts print rate to prevent the print rate from exceeding a rate of ink delivered to the printhead by more than a threshold value (does not print if drop count is less than a threshold level, 90, Fig. 4).

***Allowable Subject Matter***

3. Claims 3, 4, 15, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Reasons For Allowance***

4. The combination and method as claimed wherein the control device selects the print mode from a plurality of print modes (claims 3, 4) or the control device adjusts print rate by selectively controlling numbers of nozzles activated (claims 15, 21) is not disclosed, suggested, or made obvious by the prior arts of record.

***Response to Arguments***

5. Applicant's arguments filed March 28, 2002 have been fully considered but they are not persuasive.

With respect to the 35 USC 112 rejection, Applicants argue that the ink extraction determining device (80) is different from the control device (29).

Examiner's position is that the specification (page 6, line 4) discloses that the electrical storage device (80) is used to contain, not determine, ink extraction information. The specification (page 6, lines 11-13) further discloses that the printing system (10) selects the proper extraction rate. It is assumed that this selection must be made by a control device and element (29) is the only control device that is disclosed. Thus, the ink extraction determining device and the control device may be the same element, i.e. element (29).

With respect to the 35 USC 102 rejection, Applicants argue that Cook does not disclose a control device for selecting a print mode from a plurality of print modes based on ink extraction characteristics of the replaceable ink container.

Examiner's position is that Cook discloses a control device (36) for selecting a print mode from a plurality of print modes (print primary ink vs. secondary ink, Fig. 4) based on ink extraction characteristics of the replaceable ink container (step 90), as discussed above.

Applicants further argue that Cook does not disclose a monitoring and control device for monitoring ink delivered to the printhead by the ink delivery system, and for adjusting a print rate during a print operation based on a rate of ink deposited on media and a rate of ink delivered to the printhead.

Examiner's position is that Cook discloses a monitoring and control device (36) for monitoring ink delivered to the printhead by the ink delivery system (Fig. 1), and for adjusting a print rate during a print operation based on a rate of ink deposited on media and a rate of ink delivered to the printhead (Fig. 4, column 11, line 65, column 12, line 1), as discussed above.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
**MICHAEL NGHIEM**  
**PRIMARY EXAMINER**

Michael Nghiem

May 23, 2002